

call upon the purchaser to pay a larger sum, upon the ground that he had got more land than was supposed at the time of the purchase. Among parties equally innocent there should be a reciprocity of rights and remedies, and if, therefore, from causes for which he is in no wise to blame, the purchaser would be compelled to bear the whole loss, if the entire property should be taken from him, or a partial loss, if deprived of a part of it, it is difficult to discover the principal of equity upon which he can be held responsible, upon the ground assumed in this petition.

If the purchaser, by reason of the successful assertion of a superior outstanding title, should lose a part of the land paid for, or if, as the case stood at the time this petition was filed, he would be refused redress, upon the ground of a deficiency in the numbers of acres, it would seem to follow inevitably that he should not be obliged under the same circumstances to pay for an excess.

This principle of mutuality, I think, would be applicable to the case, if the parties had possessed the same information at the period of the sale, and surely the purchaser here has a superadded right to ask that it be enforced for his protection, when it is recollected, that the agent of this court, through whom the sale was made, was informed of the supposed excess, on or about the day of sale, and did not impart the information to the bidders, or make the fact known to the purchaser in season, to enable him to avail himself of it at the proper time; if, indeed, it would at any time have furnished him a ground of relief.

This circumstance gives stringent force to the principle, in favor of this purchaser, and would, in my view of it, be conclusive against the present application.

Without, therefore, expressing an opinion upon the other questions discussed at the bar, my judgment is, that the petition must be dismissed, and shall pass an order accordingly.